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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re A.M., a Person Coming Under the Juvenile
Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

A.M.,

Defendant and Appellant.

F078461

(Super. Ct. No. JJD070502)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Tulare County. Juliet L. Gallo, Judge.

Andrea Keith, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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* Before Franson, Acting P.J., Smith, J., and Snauffer, J.

STATEMENT OF APPEALABILITY

This appeal is from a final judgment after a contested jurisdictional hearing whereby the trial court sustained the petition and is authorized by Welfare and Institutions Code section 800.¹

STATEMENT OF THE CASE

On May 11, 2018, an amended section 602 petition was filed charging A.M. with felony assault by means likely to produce great bodily injury (Pen. Code, § 245, subd. (a)(4); count 1), and misdemeanor driving a vehicle without a license (Veh. Code, § 12500, subd. (a); count 2).²

On October 16, 2018, the trial court held the contested jurisdictional hearing. At the conclusion of the hearing, the court sustained count 1 but reduced it to a misdemeanor pursuant to Penal Code section 17, subdivision (b)(4). With no objection by the prosecution, the court also dismissed count 2.

The court presented A.M. with two options as to disposition. The court could either (1) place him on probation as a ward of the court for one year, and provided he terminated probation satisfactorily, his record would be sealed; or (2) place him on probation as a ward of the court but immediately terminate probation “unsatisfactorily,” denying him his right to have his record sealed. A.M. chose the latter option and probation was immediately terminated unsatisfactorily. A.M. then filed this timely notice of appeal.

¹ Undesignated statutory references are to the Welfare and Institutions Code.

² The original petition, filed on March 24, 2017, also charged a codefendant, minor R.A., with conspiracy to commit battery (Pen. Code, § 182, subd. (a)(1)). R.A. admitted the violation for Deferred Entry of Judgment prior to A.M.’s jurisdictional hearing.

STATEMENT OF FACTS

Richard M.'s Testimony

Richard M. (hereinafter "Richard"), the victim, was 17 years old and a student at Mount Whitney High School on March 20, 2017. On the stand, Richard testified that he did not remember being involved in an altercation on that date. He also did not remember giving a statement to the police. Richard did not remember the incident because it had happened "a couple years ago." Richard indicated that he did not know A.M. and had never seen him before. Richard did identify himself in photos taken on March 20, 2017 with an injury to his ear. Richard did not want to be in court and was forced to testify.

Testimony of Remaining Witnesses

In March 2017, Visalia Police Officer Steve Howerton was employed as a youth service officer at Mount Whitney High School. Howerton first contacted Richard because he was told there had been a fight on campus involving three students who beat up one other student. Richard told Howerton that when he left class that day, he had been rushed by several other individuals and struck in the back of the head. Richard saw A.M. force him to the ground and begin to punch him. However, Howerton did not see any injuries to the back of Richard's head consistent with his statement.

Kimberly Z. was a student at Mount Whitney High School on March 20, 2017. Kimberly did not remember much about the incident as it had taken place over a year ago. There was some sort of a fight involving multiple people during which time her phone was broken. A.M. threw the first punch and then he and Richard began fighting. Richard threw punches as well.

Rayna V. was also a student at Mount Whitney High School on March 20, 2017. Rayna also did not remember exactly what happened but did see some sort of a fight.

APPELLATE COURT REVIEW

A.M.'s appointed appellate counsel has filed an opening brief that summarizes the pertinent facts, raises no issues, and requests this court to review the record independently. (*People v. Wende* (1979) 25 Cal.3d 436.) The opening brief also includes the declaration of appellate counsel indicating that A.M. was advised he could file his own brief with this court. By letter on March 20, 2019, we invited A.M. to submit additional briefing. To date, he has not done so.

After independently reviewing the entire record, we have concluded there are no reasonably arguable legal or factual issues.

DISPOSITION

The judgment is affirmed.